



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC-2015-0270]

RIN 3150-AJ71

List of Approved Spent Fuel Storage Casks: Holtec International HI-STORM 100 Cask System; Certificate of Compliance No. 1014, Amendment No. 10; Corrections

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule; confirmation of effective date and correcting amendments.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is confirming the effective date of May 31, 2016, for the direct final rule that was published in the *Federal Register* on March 14, 2016. The direct final rule amended the NRC's spent fuel storage regulations by revising the Holtec International (Holtec) HI-STORM 100 Cask System listing within the "List of approved spent fuel storage casks" to include Amendment No. 10 to Certificate of Compliance (CoC) No. 1014. In addition, the NRC is correcting the direct final rule because it inadvertently omitted Revision 1 to Amendment Nos. 8 and 9 to CoC No. 1014.

DATES: *Effective date:* The effective date of May 31, 2016, for the direct final rule published March 14, 2016 (81 FR 13265), is confirmed. The correcting amendments are effective on May 31, 2016.

ADDRESSES: Please refer to Docket ID **NRC-2015-0270** when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- **Federal Rulemaking Web site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2015-0270**. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; e-mail: Carol.Gallagher@nrc.gov. For technical questions, contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.
- **NRC's Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "ADAMS Public Documents" and then select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to pdr.resource@nrc.gov.
- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Robert MacDougall, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-5175; e-mail: Robert.MacDougall@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Discussion

On March 14, 2016 (81 FR 13265), the NRC published a direct final rule amending its

regulations in § 72.214 of title 10 of the *Code of Federal Regulations* by revising the Holtec HI-STORM 100 Cask System listing within the “List of approved spent fuel storage casks” to include Amendment No. 10 to CoC No. 1014. Amendment No. 10 adds new fuel classes to the contents approved for the loading of 16×16-pin fuel assemblies into a HI-STORM 100 Cask System; allows a minor increase in manganese in an alloy material for the system's overpack and transfer cask; clarifies the minimum water displacement required of a dummy fuel rod (*i.e.*, a rod not filled with uranium pellets); and clarifies the design pressures needed for normal operation of forced helium drying systems. Additionally, Amendment No. 10 revises Condition No. 9 of CoC No. 1014 to provide clearer direction on the measurement of air velocity and modeling of heat distribution through the storage system.

The March 14, 2016, direct final rule inadvertently omitted Revision 1 to Amendment No. 8 (effective May 2, 2012, as corrected on November 16, 2012) to CoC No. 1014. In a final rule published in the *Federal Register* on August 18, 2015 (80 FR 49887), the NRC amended its spent fuel storage regulations by revising the Holtec HI-STORM 100 Cask System listing within the “List of approved spent fuel storage casks” to add Revision 1 to Amendment No. 8 (effective May 2, 2012, as corrected on November 16, 2012) to the CoC No. 1014. In addition, the March 14, 2016, direct final rule inadvertently omitted Revision 1 to Amendment No. 9. In a final rule published in the *Federal Register* on January 6, 2016 (81 FR 371), the NRC amended its spent fuel storage regulations by revising the Holtec HI-STORM 100 Cask System listing within the “List of approved spent fuel storage casks” to add Revision 1 to Amendment No. 9 to the CoC No. 1014. This document restores Revision 1 to Amendment Nos. 8 and 9 to CoC No. 1014.

II. Rulemaking Procedure

Under the Administrative Procedure Act (5 U.S.C. 553(b)), an agency may waive the normal notice and comment requirements if it finds, for good cause, that they are impracticable, unnecessary, or contrary to the public interest. As authorized by 5 U.S.C. 553(b)(B), the NRC

finds good cause to waive notice and opportunity for comment on the amendments because they will have no substantive impact and the amendments are of a minor and administrative nature. Specifically, these amendments are to restore Revision 1 to Amendment Nos. 8 and 9 to CoC No. 1014. These amendments do not require action by any person or entity regulated by the NRC. Also, the amendments do not change the substantive responsibilities of any person or entity regulated by the NRC. For these reasons, the NRC finds, pursuant to 5 U.S.C. 553(d)(3), that good cause exists to make the amendments effective upon publication of this document.

III. Public Comments on the Companion Proposed Rule

In the direct final rule, the NRC stated that if no significant adverse comments were received, the direct final rule would become effective on May 31, 2016. The NRC received four comment submissions with 22 individual comments on the companion proposed rule (81 FR 13295). Electronic copies of these comments can be obtained from the Federal Rulemaking Web site, <http://www.regulations.gov>, by searching for Docket ID **NRC-2015-0270**. The comments are also available in ADAMS under Accession Nos. ML16105A423, ML16105A424, ML16105A425, and ML16105A426. For the reasons discussed in more detail in Section IV, “Public Comment Analysis,” of this document, none of the comments received are considered significant adverse comments as defined in NUREG/BR-0053, Revision 6, “United States Nuclear Regulatory Commission Regulations Handbook” (ADAMS Accession No. ML052720461).

IV. Public Comment Analysis

The NRC received four comment submissions with 22 individual comments on the companion proposed rule. As explained in the March 14, 2016, direct final rule, the NRC would withdraw the direct final rule only if it received a “significant adverse comment.” This is a

comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when:

a) The comment causes the NRC staff to reevaluate (or reconsider) its position or conduct additional analysis;

b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

c) The comment raises a relevant issue that was not previously addressed or considered by the NRC staff.

2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

3) The comment causes the NRC staff to make a change (other than editorial) to the rule, CoC, or Technical Specifications.

The NRC determined that none of the comments submitted on this direct final rule met any of these criteria. The comments either were already addressed by the NRC staff's safety evaluation report (SER) (ADAMS Accession No. ML15331A309), or were beyond the scope of this rulemaking. The NRC has not made any changes to the direct final rule as a result of the public comments. However, the NRC will take the opportunity to respond to the comments in a separate *Federal Register* notice that will be published in June 2016. You will be able to access the separate *Federal Register* notice on the Federal rulemaking Web site at

<http://www.regulations.gov> under Docket ID **NRC-2015-0270**. The Federal rulemaking Web site allows you to receive alerts when changes or additions occur in a docket folder. To subscribe:

1) Navigate to the docket folder (**NRC-2015-0270**); 2) click the "Sign up for E-mail Alerts" link;

and 3) enter your e-mail address and select how frequently you would like to receive e-mails (daily, weekly, or monthly).

The NRC staff has concluded that the comments received on the companion proposed rule for the Holtec HI-STORM 100 Cask System, CoC No. 1014, Amendment No. 10, are not significant adverse comments as defined in NUREG/BR-0053, Revision 6. Therefore, the direct final rule will become effective as scheduled.

List of Subjects for 10 CFR Part 72

Administrative practice and procedure, Criminal penalties, Hazardous waste, Indians, Intergovernmental relations, Manpower training programs, Nuclear energy, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR part 72:

PART 72 -- LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH-LEVEL RADIOACTIVE WASTE, AND REACTOR-RELATED GREATER THAN CLASS C WASTE

1. The authority citation for part 72 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 223, 234, 274 (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2210e, 2232, 2233, 2234, 2236, 2237, 2238, 2273, 2282, 2021); Energy

Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); National Environmental Policy Act of 1969 (42 U.S.C. 4332); Nuclear Waste Policy Act of 1982, secs. 117(a), 132, 133, 134, 135, 137, 141, 145(g), 148, 218(a) (42 U.S.C. 10137(a), 10152, 10153, 10154, 10155, 10157, 10161, 10165(g), 10168, 10198(a)); 44 U.S.C. 3504 note.

2. In § 72.214, Certificate of Compliance No. 1014 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1014.

Initial Certificate Effective Date: May 31, 2000.

Amendment Number 1 Effective Date: July 15, 2002.

Amendment Number 2 Effective Date: June 7, 2005.

Amendment Number 3 Effective Date: May 29, 2007.

Amendment Number 4 Effective Date: January 8, 2008.

Amendment Number 5 Effective Date: July 14, 2008.

Amendment Number 6 Effective Date: August 17, 2009.

Amendment Number 7 Effective Date: December 28, 2009.

Amendment Number 8 Effective Date: May 2, 2012, as corrected on November 16, 2012 (ADAMS Accession No. ML12213A170); superseded by Amendment Number 8, Revision 1 Effective Date: February 16, 2016.

Amendment Number 8, Revision 1 Effective Date: February 16, 2016.

Amendment Number 9 Effective Date: March 11, 2014, superseded by Amendment Number 9, Revision 1, on March 21, 2016.

Amendment Number 9, Revision 1, Effective Date: March 21, 2016.

Amendment Number 10 Effective Date: May 31, 2016.

Safety Analysis Report (SAR) Submitted by: Holtec International.

SAR Title: Final Safety Analysis Report for the HI-STORM 100 Cask System.

Docket Number: 72-1014.

Certificate Expiration Date: May 31, 2020.

Model Number: HI-STORM 100.

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Dated at Rockville, Maryland, this 25th day of May, 2016.

For the Nuclear Regulatory Commission.

Cindy Bladey, Chief,
Rules, Announcements, and Directives Branch,
Division of Administrative Services,
Office of Administration.

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